

## **MOST FREQUENT COMPLAINTS REGARDING VIOLATION OF THE DELAWARE SECURITIES ACT BY REGISTERED PROFESSIONALS**

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The Delaware Securities Act prohibits fraud in the offer and sale of securities in the State of Delaware. The Act also sets certain guidelines and standards of conduct for registered investment professionals. We must remember that investing does involve risks and that losses can and do occur even when registered professionals act competently and honestly. Where, however, a registered investment professional engages in misconduct, or acts in a dishonest or unethical fashion, that registrant can be subject to discipline pursuant to the Delaware Securities Act.

While violations of the Delaware Act are relatively rare in contrast to the number of securities transactions by Delaware residents, the following list of complaints are the ones most frequently investigated by the Delaware Securities Division.

### **Churning**

Many stock brokers are paid on a commission basis. Broker-dealers and their agents have a duty to conduct trading in a customer's account which is consistent with a customer's stated investment goals and objectives and their financial circumstances. If a broker-dealer or his agent, induces securities trading in an investor's account which is excessive in size or frequency in light of the customer's investment objectives, level of sophistication in investments or financial situation or needs, he has violated the Delaware Securities Act. In short, when a broker-dealer or his agent has engaged in frequent trading to generate excessive commissions for his own benefit, to the detriment of his client, a violation of the Delaware Securities Act has occurred. If you believe your account has been churned, you should complain to the brokerage firm and then contact the Delaware Division of Securities.

### **Unauthorized Trades**

Unless an investor has granted written discretionary authority to the broker to trade for the benefit of the investor, neither a broker-dealer nor his agent, may make a trade in that account without prior authorization of that trade by the client. In other words, before making a purchase or sale of a security for the client's account, the broker-dealer agent must get authorization as to what security is to be bought or sold, the number of shares or units to be traded, and the price at which they are to be traded. It is not permissible for a broker-dealer or his agent to make a purchase or sale without the investor's knowledge and then seek authorization for the transaction after the trade.

To make sure that unauthorized trades are not made, it is important for the investor to carefully review all monthly account statements and transaction confirmation slips. Any unauthorized trades which appear on the investor's statement, or a confirmation slip, should be the subject of a prompt written complaint.

### **Unsuitable Trades**

A broker-dealer agent has an obligation to know his client's investment objectives and goals and the client's financial situations and needs. After conducting a reasonable investigation regarding the investor's investment goals and financial circumstances, the broker-dealer agent must conduct a reasonable investigation into the security that he seeks to recommend to determine whether it is suitable for that client. It is a violation of the Delaware Securities Act for a securities broker-dealer agent to recommend a securities transaction without reasonable grounds to believe that the securities transaction is suitable for that customer in light of the customer's investment

objectives, level of sophistication in investments, financial situation and needs or any other information material to the investment. This is particularly true when the customer is relying on the broker-dealer's expertise in recommending a particular investment product. A recommendation of an unsuitable investment by a registrant to a Delaware investor constitutes grounds for relief pursuant to the Delaware Securities Act.

### **Misrepresentations and Material Omissions**

When an investor deals with a registered investment professional, that investor is entitled to honesty and full candor from that registrant in discussions concerning the offer and sale of securities. If a broker-dealer or his agent knowingly provides false information, which is significant or material to the transaction and the investor relies on that information, to his detriment, that registrant's conduct is actionable under the Delaware Securities Act. These misrepresentations and material omissions generally fall within one of the following categories:

- a. Fees and commissions related to investment advice provided, or related to a specific securities transaction;
- b. The risks associated with a specific investment or securities transaction;
- c. An anticipated rate of return;
- d. The nature or prospects of an enterprise or business;
- e. The extent of the investigation or research conducted by the investment professional with regard to a particular investment.

Any investor who believes that his or her investment professional has made a material misrepresentation, or material omission, in the course of his or her professional relationship, should contact the Division of Securities at (302) 577-8424 or (800) 220-5424.